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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,689	09/09/2003	Peter Gerrard	0112300-1535	7521
7590 01/23/2006			EXAMINER	
Bell, Boyd & Lloyd LLC P.O. Box 1135 Chicago, IL 60690-1135			YOO, JASSON H	
			ART UNIT	PAPER NUMBER
			3714	
DATE MAILED: 01/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,689	GERRARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jasson Yoo	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, 15-29, 31-41, 43-50, 52-62, 64-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff'334 (US No. 6,312,334) in view of *Let's Make a Deal* – Wikipedia ([http://en.wikipedia.org/wiki/Let's\\_Make\\_a\\_Deal](http://en.wikipedia.org/wiki/Let's_Make_a_Deal)).

Yoseloff'334 teaches implementing "Let's Make a Deal" on the slot machine, but doesn't explicitly teach how this would be done. Figs. 6 and 7 are said to illustrate an embodiment for playing "Let's Make a Deal". The references *Let's Make a Deal* – Wikipedia teach the details of "Let's Make a Deal". It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Yoseloff'334 in view of *Let's Make a Deal* – Wikipedia to have an offer/acceptance game in order to implement Yoseloff'334 suggestion to implement "Let's Make a Deal".

*Let's Make a Deal* – Wikipedia ([http://en.wikipedia.org/wiki/Let's\\_Make\\_a\\_Deal](http://en.wikipedia.org/wiki/Let's_Make_a_Deal)) is a television game showed first aired in 1963. During the show, the contestant is offered multiple award offers (pages 1-3). The multiple award offers (such as a plastic egg or a box which may reveal \$1000, a new kitchen appliance, or something worthless;

described in page 2). Throughout the show, the contestant is given several chances to trade in the award item in exchange for another item. Then the contestant is offered a chance to play the Big Deal of the Day (page 3-4). The contestant is allowed to keep their winnings or give up everything already won for a spot in the Big Deal of the Day. The Big Deal of the Day allows the player to receive an award, which is greater or less in value than the initial offer.

Yoseloff'334 discloses a first segment of the game, offering a winning outcome and an associated payout (col. 3:51-54). Furthermore, the first segment of the game may be predetermined outcomes such as number of winning outcomes or achieving one of the specific or general groups of winning outcomes (col. 3:27-33). Implementing "Let's Make a Deal," the first segment can have an predetermined outcome or a winning outcome providing an award offer to the player as the initial offer. Then the player is provided an option (entering the second segment of the game as described in col. 3:55-60) to accept or reject the prize offered in the first segment, to receive instead a third award offer. Thus:

Claims 1, 11, 19-20, 22, 29, 31, 35-37, 39, 46, 48, 50, 52, 55-57, 68-70, 74;  
Yoseloff'334 in view of *Let's Make a Deal - Wikipedia* discloses a gaming device and a method of operating a gaming device comprising:

At least two potential award offers [The two potential award offers can be a large payout or a small in payout i.e. awards hidden behind one of the doors in fig. 7 (col. 3:5-

8)] adapted to be formed and displayed to a player (Visual Display 36, in Fig. 3),  
wherein

a display device operable to offer the greater of the first and second potential award offers (The display device of Yoseloff in Fig 7 is operable to offer the greater of the award offers. The prize award in one of the door is greater than the prize award of another door i.e. the first award offer can be the first door, the second award offer can be the third door) to the player as an initial offer, which can accept or reject to receive instead a third award offer (the third offer can be the door that was not selected, i.e. the third door).

The limitations of claims 1, 36, 57, 69, and 70, regarding the number of values, the average values, and whether or not to include one or more values from each of the groups when forming each award offer will be discussed below.

The limitation of claim 46, regarding the values for each award offer is selected to add to the predetermined totals will be discussed below.

Claims 2-5, 12, 21, 25-28, 38, 40, 47, 58-60, 75-76 (and the limitations of independent claims 1, 36, 57, 69, and 70 regarding the number of values and the average values when forming each award offer); Yoseloff<sup>334</sup> further teaches the award offers can be offered by any wagering game (cols. 1:46-65, 2:29-52, 3:15-18) which are selected from different range of numbers (a game of wheel of fortune with different ranges of numbers, col. 7:57-63; or any other modified games discussed above such as blackjack, dominoes, mah-jong can be played with different range of numbers), and the

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average values ranging in a particular set are weighted differently (Depending on the game played, the weight of values are different; i.e. an Ace of spades is weighted more or have a greater upper end than a two of diamonds). Furthermore, it is well known in the art to offer awards with different number of values selected from a range of numbers having a greater upper end than a second range of number employed to select the number of values used to form another award offer, in order to provide a plurality of award outcomes. It is well known in the art to weight values within ranges in order to have certain values chosen more than others and have awards to have approximately the same expected value. This is an important aspect of casino management used to control the odds in which awards or other features are present. Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify Yoseloff'334 gaming device and have awards selected from a range of number have a greater upper end than another range of number, and having the ranges weighted differently in order to offer the possibility to win from a wide range of awards, and control the odds of the awards.

Claim 24 (and the limitations of independent claim 46 regarding the values for each of the award offer is selected to add to the predetermined totals); Yoseloff'334 discloses the award offers are predetermined (col. 7:60-63) before the display of the values, and wherein the values for each of the award offers are selected to add to the predetermined totals (combination of symbols, col. 7:63).

Claims 6, 16, 23, 32, 44, 49, 53, 61, 65, 77; Yoseloff'334 discloses the values are selected randomly from different groups of varying values (as discussed above, the varying values can be different values of the cards in a hand, or any ranking of symbols within a wagering game). Yoseloff'334 also teaches the game could involve a wheel of fortune wheel (col. 7:57-63) with varying values within the wheels. Although Yoseloff'334 does not specifically teach the values within a group are taken or selected in an order from lowest to highest, or formed by selecting sequentially from the groups, it is well known in the art to select prizes in specific order. Many casino games, or even live game shows offer awards from lowest to greatest in value or sequentially from the groups in order to provide suspense and excitement for the player. Furthermore, the selection order has no effect to the prize value, when the prize value is based upon the total of the individual award unit (i.e. In a modified game of poker, where a poker hand of a royal flush giving the award value or prize value of the jackpot, gives the player the jackpot prize regardless if the Ace, came out first or the Ten came out first, or any order of the Ace, King, Queen, Jack, Ten.). Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify Yoseloff'334 and "Let's Make a Deal" gaming device, and incorporate selection of order in selecting the award values from lowest to highest in order to provide suspense and excitement for the player.

The limitation of claims 16, 32, 44, 53, 65, regarding whether or not to include one or more values from the groups to form the award offer will be discussed below.

Claims 7, 17, 33, 45, 54, 66, 72-73 (and the limitation of the independent claims 16, 32, 44, 53, 65, 70 regarding whether or not to include one or more values from the groups to form the award offer); Yoseloff'334 discloses the groups are weighted to be selected randomly more often than at least one of the other groups. Yoseloff'334 discloses the games could be a combination or a modified version of any wagering game such as poker, mah jong, dominoes, twenty one, black jack, or games that does not even include playing cards (cols. 1-5). Yoseloff'334 also discloses the game could be played involving a wheel of fortune wheel wherein the prizes weighted so the greater value prizes are selected less than the less valued prizes. As discussed above, it is well known in the art to offer awards in groups weighted to be selected randomly more often than at least one of the other groups, and to include one or more values from the groups, in order to provide a plurality of award outcomes. This is an important aspect of casino management used to control the odds in which awards or other features are present. Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify Yoseloff'334 and "Let's Make a Deal" gaming device, and incorporate weighted groups, in order to provide a plurality of award outcomes, and maintaining the odds favorable to the casino.

Claims 8-9; Yoseloff'334 discloses a gaming device of claim 6, as discussed above. However Yoseloff'334 does not specifically teach the groups are arranged in a grid, and wherein values of a same relative amount within their respective groups are arranged adjacently in the grid, nor does it teach some of the values of the same



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relative amount between the groups are the same values. However this is an aesthetic design choice in displaying the award points in a particular arrangement. Aesthetic design changes that do not impact the function of system cannot be relied on to distinguish the claimed subject matter over prior art. See *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). In this case, the claimed subject matter of groups and values arranged in a grid is an aesthetic design choice and does not functionally alter the probability of the selection of the award values or the selection of the first, second or third award offers as suggested by Yoseloff'334. Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify Yoseloff'334 gaming device and arrange the groups and values in a grid in order to provide a display of awards in an organized way, allowing the players to easily see the range of award values that are available.

Claims 10, 18, 34, 55, 67; Yoseloff'334 discloses the values are added to form the first, second and third awards offers and the potential award offers is a combination of at least two values. Yoseloff'334 discloses the game apparatus is used with any wagering game such as blackjack, which is played by the sum of the values. Yoseloff'334 also discloses the award can be cumulative award basis or partial accumulated award basis (leading to the selection of the second and third award offers) which can be the added form of the values in any wagering game (col. 5:28). Yoseloff'334 also discloses the award can be based on a wheel of fortune wheel

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(adding the award points from the wheel), and can be a combination of symbols (col. 7:57-63).

Claims 13, 15, 29, 31, 41, 43, 50, 52, 62, 64, 78; Yoseloff'334 discloses the gaming device is controlled through a computer storage device (ROM memory 46, col. 10:44) and the gaming device includes an on-board processor that forms the award offers (MPU 33, col. 10:42-46).

Claims 22, 48; Yoseloff'334 and Let's Make a Deal does not specifically teach that the first award offers are displayed before the values of the second award offers, which are both displayed before the values of the third award offer. However, the order of which the award offers are displayed is an aesthetic design choice. Aesthetic design changes that do not impact the function of system cannot be relied on to distinguish the claimed subject matter over prior art. See *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). In this case, the claimed subject matter of the order in which the award offers are displayed is an aesthetic design choice and does not functionally alter the gaming system suggested by Yoseloff and Let's Make a Deal in which the player is given a choice of three award offers, where the values for each award offer is randomly selected.

Claim 71, Yoseloff'334 discloses the second offer occurs after the termination of the first offer. The first offer can be a first hand of cards, and the second offer could be

the second hand of cards (col. 5:21-33). The offering of the awards can be repeated a number of times before the final (third) offer (col. 5:1-20).

Claims 13-14, 29-30, 41-42, 50-51, 62-63, 78-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff'334 in view of *Let's Make a Deal* – Wikipedia ([http://en.wikipedia.org/wiki/Let's\\_Make\\_a\\_Deal](http://en.wikipedia.org/wiki/Let's_Make_a_Deal)) as applied to claims above, and in further view of Kelly et al.'918 (US 5,816,918).

Yoseloff'334 and "Let's Make a Deal" discloses a gaming device as discussed above. However Yoseloff'334 does not teach the gaming device is controlled through a data network, or the data network includes an internet. In an analogous art to wagering games and methods of providing the games to the players, Kelly et al. 918 teaches of a gaming device connected to a network, and the Internet (col. 2:33-49). Therefore it would have been obvious to one skilled in the art at the time the invention was made and modify Yoseloff'334 and "Let's Make a Deal" gaming device and control the gaming device through a data network and the Internet, in order to allow players to play from a remote server (col. 2:45-49), thus providing more flexibility when updating and monitoring the game.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pau et al.'294; US 2002/0042294A1 teaches the following features:

different number of values used to select the award offer;

three award selections: the first award selection offer with less number of award value than the second award selection offer, wherein the award values are on average greater than the values of the second award selection offer; the second award selection offer with less number of award value than the third award selection offer, wherein the award values are on average greater than the values of the third award selection offer;

three award selections each selection having approximately the same expected value.

Waler et al.'235; US 6,174,235 teaches the following features:

an award offer selected from a range of numbers;

at least one number of values is selected more often than at least on other number of values;

award values are arranged in a grid.

Yoseloff et al.'208; US 6,471,208 teaches the following features:

receiving an intial offer, which the player can accept or reject a final offer;

awards with different number of values;

award values arranged in a grid;

award offer selected from a range of number of values, wherein the values are added to form the award offers.

Bansai et al.'338 US 6,016,338 teaches the following features:

multiple award offers in tiers (or groups), each award offer having an award values weighted more than another group, and each offer having an award value weighted more than an award value in another group;

player receives an initial award offer, which the player can accept or reject to receive instead a second award offer, which the player can accept or reject to receive instead a third award offer.

Kaminkow'232; Pub. No: US 2002/0052232A1 teaches the following features:

three award offers, wherein the player receives the highest award from the three award offers;

each award offer is the sum of randomly selected award values.

Baerlocher'187; US 6,375,187 teaches the following features:

multiple award offers as an initial offer, which the player can accept or reject to receive instead a final award offer;

award offers selected from a wide range of prize values.

*Let's Make A Deal*; <http://www.tvtome.com/tvtome/servlet/ShowMainServlet/showid-5457/> teaches how the game show is played and more specifically the following features:

multiple award offers as an initial offer, which the player can accept or reject to receive instead a final award offer;

award offers selected from a wide range of prize values.

*Let's Make a Deal*; <http://www.curtalliaume.com/lmad.html> teaches how the game show is played and more specifically the following features:

multiple award offers as an initial offer, which the player can accept or reject to receive instead a final award offer;

award offers selected from a wide range of prize values.

*The "Jeopardy!" Home Game Home Page*; <http://userdata.acd.net/ottinger/inside/jeopardy/> teaches the following features:

award offer selected from a range of number of values, wherein the values are added to form the award offers;

arrangement of award values in a grid, adjacently within their respective groups and some of the values of the same relative amount between the groups are the same values.

*Press Your Luck*; [http://en.wikipedia.org/wiki/Press\\_Your\\_Luck](http://en.wikipedia.org/wiki/Press_Your_Luck) teaches the following features:

awards with different number of values;

award values arranged in a grid;

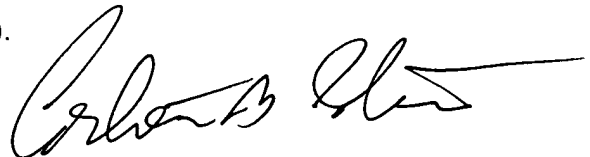
award offer selected from a range of number of values, wherein the values are added to form the award offers;

Rich Lehman; Slot Operations the Myth and the math teaches award values weighted accordingly to casino management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on (571)272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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